# BEFORE THE BOARD OF REGISTERED NURSING DEPARTMENT OF CONSUMER AFFAIRS STATE OF CALIFORNIA

In the Matter of the Statement of Issues Against:

**CORY SCOTT HARMAN** 

Case No. 2012-329

Respondent

# **DECISION AND ORDER**

The attached Stipulated Settlement and Disciplinary order for Public Reproval is hereby adopted by the Board of Registered Nursing, Department of Consumer Affairs, as its Decision in this matter.

This Decision shall become effective on November 30, 2012.

IT IS SO ORDERED November 1, 2012.

Raymond Mallel, President Board of Registered Nursing

Department of Consumer Affairs

State of California

. 1	KAMALA D. HARRIS
2	Attorney General of California ARTHUR D. TAGGART
.3	Supervising Deputy Attorney General JEFFREY M. PHILLIPS
	Deputy Attorney General
4 .	State Bar No. 154990   1300 I Street, Suite 125
5	P.O. Box 944255 Sacramento, CA 94244-2550
6	Telephone: (916) 324-6292
7	Facsimile: (916) 327-8643  Attorneys for Complainant
: 8	
	BEFORE THE BOARD OF REGISTERED NURSING
9	DEPARTMENT OF CONSUMER AFFAIRS STATE OF CALIFORNIA
10	STATE OF CALIFORNIA
11	In the Matter of the Statement of Issues Case No. 2012-329
12	against: STIPULATED SETTLEMENT AND
	DISCIPLINARY ORDER FOR PUBLIC
13	CORY SCOTT HARMAN REPROVAL 14086 Old Oregon Trail
14	Redding, CA 96003 [Bus. & Prof. Code § 495]
15	Respondent.
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17	IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-
18	entitled proceedings that the following matters are true:
19	PARTIES
20	1. LOUISE R. BAILEY, M.ED., RN (Complainant) is the Interim Executive Officer of
21	the Board of Registered Nursing. She brought this action solely in her official capacity and is
22	represented in this matter by Kamala D. Harris, Attorney General of the State of California, by
23	Jeffrey M. Phillips, Deputy Attorney General.
24	2. Respondent Cory Scott Harman (Respondent) is representing himself in this
25	
	proceeding and has chosen not to exercise his right to be represented by counsel.
26	3. On or about April 26, 2011, the Board received an Application for Licensure by
2,7	Examination from Cory Scott Harman ("Respondent"). On or about April 25, 2011, Cory Scott
28.	Harman certified under penalty of perjury to the truthfulness of all statements, answers, and

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2,  representations in the application. The Board denied the application on or about August 2, 2011. Respondent filed a timely appeal of the Board's denial of the application.

### <u>JURISDICTION</u>

4. Statement of Issues No. 2012-329 was filed before the Board of Registered Nursing (Board), Department of Consumer Affairs, and is currently pending against Respondent. The Statement of Issues and all other statutorily required documents were properly served on Respondent on December 2, 2011. Respondent timely filed his Notice of Defense contesting the Statement of Issues. A copy of Statement of Issues No. 2012-329 is attached as exhibit A and incorporated herein by reference.

## ADVISEMENT AND WAIVERS

- 5. Respondent has carefully read, and understands the charges and allegations in Statement of Issues No. 2012-329. Respondent has also carefully read, and understands the effects of this Stipulated Settlement and Disciplinary Order for Public Reproval.
- 6. Respondent is fully aware of his legal rights in this matter, including the right to a hearing on the charges and allegations in the Statement of Issues; the right to be represented by counsel at his own expense; the right to confront and cross-examine the witnesses against him; the right to present evidence and to testify on his own behalf; the right to the issuance of subpoenas to compel the attendance of witnesses and the production of documents; the right to reconsideration and court review of an adverse decision; and all other rights accorded by the California Administrative Procedure Act and other applicable laws.
- 7. Respondent voluntarily, knowingly, and intelligently waives and gives up each and every right set forth above.

### CULPABILITY

- 8. Respondent admits the truth of each and every charge and allegation in Statement of Issues No. 2012-329.
- 9. Respondent agrees that his Registered Nurse License is subject to discipline and he agrees to be bound by the Board of Registered Nursing (Board)'s terms as set forth in the Disciplinary Order below.

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#### RESERVATION

10. The admissions made by Respondent herein are only for the purposes of this proceeding, or any other proceedings in which the Board of Registered Nursing or other professional licensing agency is involved, and shall not be admissible in any other criminal or civil proceeding.

## **CONTINGENCY**

- 11. This stipulation shall be subject to approval by the Board of Registered Nursing. Respondent understands and agrees that counsel for Complainant and the staff of the Board of Registered Nursing may communicate directly with the Board regarding this stipulation and settlement, without notice to or participation by Respondent. By signing the stipulation, Respondent understands and agrees that he may not withdraw his agreement or seek to rescind the stipulation prior to the time the Board considers and acts upon it. If the Board fails to adopt this stipulation as its Decision and Order, the Stipulated Settlement and Disciplinary Order for Public Reproval shall be of no force or effect, except for this paragraph, it shall be inadmissible in any legal action between the parties, and the Board shall not be disqualified from further action by having considered this matter.
- 12. The parties understand and agree that facsimile copies of this Stipulated Settlement and Disciplinary Order for Public Reproval, including facsimile signatures thereto, shall have the same force and effect as the originals.
- 13. This Stipulated Settlement and Disciplinary Order for Public Reproval is intended by the parties to be an integrated writing representing the complete, final, and exclusive embodiment of their agreement. It supersedes any and all prior or contemporaneous agreements, understandings, discussions, negotiations, and commitments (written or oral). This Stipulated Settlement and Disciplinary Order for Public Reproval may not be altered, amended, modified, supplemented, or otherwise changed except by a writing executed by an authorized representative of each of the parties.

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14. In consideration of the foregoing admissions and stipulations, the parties agree that 1 the Board may, without further notice or formal proceeding, issue and enter the following 2 Disciplinary Order: 3 DISCIPLINARY ORDER 4 IT IS HEREBY ORDERED that a Registered Nurse License shall be issued to Respondent 5 Cory Scott Harman (Respondent) and which license shall, by way of letter from the Board's 6 Executive Officer, be publicly reproved. The letter shall be in the same form as the letter attached 7 as Exhibit B to this stipulation. 8 ACCEPTANCE 9 I have carefully read the Stipulated Settlement and Disciplinary Order for Public Reproval. 10 I understand the stipulation and the effect it will have on my Registered Nurse License. I enter 11 into this Stipulated Settlement and Disciplinary Order for Public Reproval voluntarily, 12 knowingly, and intelligently, and agree to be bound by the Decision and Order of the Board of 13 Registered Nursing. 14 15 16 17 Respondent 18 19 20 2.1 22 23 24 25 26 27. 28

STIPULATED SETTLEMENT (2012-329)

### ENDORSEMENT

The foregoing Stipulated Settlement and Disciplinary Order for Public Reproval is hereby respectfully submitted for consideration by the Board of Registered Nursing of the Department of Consumer Affairs.

Dated: 8(8)12

Respectfully submitted;

KAMALA D. HARRIS
Attorney General of California
ARTHUR D. TAGGART
Supervising Deputy Attorney General

JEDFREY M. PHILLIPS
Deputy Attorney General
Attorneys for Complainant

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# Exhibit A

Statement of Issues No. 2012-329

1 2 3 4 5 6 7 8	KAMALA D. HARRIS Attorney General of California ARTHUR D. TAGGART Supervising Deputy Attorney General JEFFREY M. PHILLIPS Deputy Attorney General State Bar No. 154990 1300 I Street, Suite 125 P.O. Box 944255 Sacramento, CA 94244-2550 Telephone: (916) 324-6292 Facsimile: (916) 327-8643 Attorneys for Complainant  BEFORE THE BOARD OF REGISTERED NURSING DEPARTMENT OF CONSUMER AFFAIRS
10	STATE OF CALIFORNIA
11	In the Matter of the Statement of Issues Case No. 2012 - 329
12	Against: CORY SCOTT HARMAN
13	14086 Old Oregon Trail STATEMENT OF ISSUES Redding, CA 96003
14	
15	Respondent.
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17	Complainant alleges:
18	<u>PARTIES</u>
19	1. Louise R. Bailey, M.Ed., RN ("Complainant") brings this Statement of Issues solely
2.0	in her official capacity as the Executive Officer of the Board of Registered Nursing ("Board"),
21	Department of Consumer Affairs.
22	Application Information
23	2. On or about April 26, 2011, the Board received an Application for Licensure by
24	Examination from Cory Scott Harman ("Respondent"). On or about April 25, 2011, Cory Scott
25	Harman certified under penalty of perjury to the truthfulness of all statements, answers, and
26	representations in the application. The Board denied the application on August 2, 2011.
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STATEMENT OF ISSUES

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## STATUTORY PROVISIONS

- 3. Section 2736 of the Business and Professions Code ("Code") provides, in pertinent part, that the Board may deny a license when it finds that the applicant has committed any acts constituting grounds for denial of licensure under Code section 480.
  - 4. Code section 480 states, in pertinent part:
  - (a) A board may deny a license regulated by this code on the grounds that the applicant has one of the following:
  - (1) Been convicted of a crime. A conviction within the meaning of this section means a plea or verdict of guilty or a conviction following a plea of nolo contendere. Any action that a board is permitted to take following the establishment of a conviction may be taken when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal, or when an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under the provisions of Section 1203.4 of the Penal Code.
  - (3) (A) Done any act that if done by a licentiate of the business or profession in question, would be grounds for suspension or revocation of license.
  - 5. Code section 2761, subdivision (f) states:

The board may take disciplinary action against a certified or licensed nurse or deny an application for a certificate or license for any of the following:

(f) Conviction of a felony or of any offense substantially related to the qualifications, functions, and duties of a registered nurse, in which event the record of the conviction shall be conclusive evidence thereof.

### FIRST CAUSE FOR DENIAL OF APPLICATION

### (Criminal Conviction)

- 6. Respondent's application is subject to denial pursuant to Code sections 2736, 480, subdivision (a)(1), and 2761, subdivision (f), in that Respondent has been convicted of the following crimes that are substantially related to the qualifications, functions, or duties of a registered nurse:
- a. On or about May 18, 2001, in the Superior Court, County of Shasta, California in the matter entitled *People vs. Cory Scott Harman*, 2001, Case No. MCRDCRTR010002827, Respondent was convicted following his plea of guilty to a violation of Vehicle Code section 23103.5 (wet and reckless), a misdemeanor. The circumstances of the crime are that on April 10, 2001, Respondent was arrested for driving under the influence of alcohol following a traffic stop.

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Respondent's blood alcohol level measured .10% and .09%. Respondent was a minor at the time of this arrest.

- b. On or about August 20, 2001, in the Superior Court, County of Shasta, California in the matter entitled *People vs. Cory Scott Harman*, 2001, Case No. MCRDCRTR010005599, Respondent was convicted following his plea of guilty to violations of Vehicle Code section 23152, subdivision (b) (driving with a blood alcohol level of .08% or more), a misdemeanor and Vehicle Code section 14601.1, subdivision (A) (driving when privilege is suspended or revoked), a misdemeanor. The circumstances of the crime are that on July 15, 2001, Respondent was arrested for driving under the influence of alcohol following a traffic stop. Respondent's blood alcohol level measured .11%.
- c. On or about September 23, 2002, in the Superior Court, County of Shasta, California in the matter entitled *People vs. Cory Scott Harman*, 2002, Case No. MCRDCRTR020005490, Respondent was convicted following his plea of guilty to a violation of Vehicle Code section 14601.1, subdivision (A) (driving when privilege is suspended or revoked), a misdemeanor. The circumstances of the crime are that on June 26, 2002, Respondent was cited following a traffic stop for driving when his driving privilege was suspended or revoked.
- d. On or about June 10, 2005, in the Superior Court, County of Shasta, California in the matter entitled *People vs. Cory Scott Harman*, 2005, Case No. MCRDCRTR050003552, Respondent was convicted following his plea of guilty to a violation of Vehicle Code section 14601.1, subdivision (A) (driving when privilege is suspended or revoked), with a prior, a misdemeanor. The circumstances of the crime are that on April 30, 2005, Respondent was cited following a traffic stop for driving when his driving privilege was suspended or revoked.

### SECOND CAUSE FOR DENIAL OF APPLICATION

(Committed Acts Which if Done by a Licentiate Constitute Cause for Suspension or Revocation of a License)

7. Respondent's application is subject to denial pursuant to Code sections 2736 and 480, subdivision (a)(3)(A), in that Respondent committed acts which if done by a licentiate constitute

cause for discipline pursuant to Code sections 2761, subdivision (f); 2762, subdivisions (b) and (c).

### PRAYER

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Board of Registered Nursing issue a decision:

- 1. Denying the application of Cory Scott Harman for a Registered Nurse License;
- 2. Taking such other and further action as deemed necessary and proper.

DATED: November 29, 2011

LOUISE R. BAILEY, M.ED., RI

Executive Officer

Board of Registered Nursing.

Department of Consumer Affairs

State of California

Complainant

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# Exhibit B

Letter of Public Reproval in Case No. 2012-329



STATE AND CONSUMER SERVICES AGENCY . GOVERNOR EDMUND G. BROWN JR.

Board of Registered Nursing
P O Box 944210, Sacramento, CA 94244-2100
P (916) 322-3350 I www.rn.ca.gov
Louise R. Bailey, M.ED., RN, Executive Officer



November 1, 2012

Cory Scott Harman 14086 Old Oregon Trail Redding, CA 96003

RE:

LETTER OF PUBLIC REPROVAL

In the Matter of the Statement of Issues Against:

Cory Scott Harman, Applicant for Registered Nurse License

Dear Mr. Harman:

On November 29, 2011, the Board of Registered Nursing, Department of Consumer Affairs, State of California, filed a Statement of Issues against your Registered Nurse License application. The Statement of Issues alleged that you engaged in unprofessional conduct under Business and Professions code sections 2736, 480 subdivision (a)(1), and 2761, subdivision (f), based on the following:

On May 18, 2001, you were convicted of violating Vehicle Code 23103.5 (wet and reckless), a misdemeanor, after being arrested for driving under the influence of alcohol on April 10, 2001, with a blood alcohol content of .10% and .09%. On August 20, 2001, you were convicted of violating Vehicle Code section 23152, subdivision (b) (driving with a blood alcohol level of .08% or more), a misdemeanor, after being arrested on July 15, 2001, with a blood alcohol level measuring .11%. On September 23, 2002, you were convicted of violating Vehicle Code section 14601.1, subdivision (A) (driving when privilege is suspended or revoked), a misdemeanor. On June 10, 2005, you were convicted of again violating Vehicle Code section 14601.1, subdivision (A) (driving when privilege is suspended or revoked), with a prior, a misdemeanor.

Taking into consideration the considerable rehabilitation efforts that you have undertaken, your full compliance with the criminal court's probation conditions, the time that has passed without any further violation of the law, and other mitigating circumstances in this case that support the determination that you are safe to practice as a Registered Nurse, the Board has decided that the charges warrant a public reproval.

Accordingly, in resolution of this matter under the authority provided under Business and Professions Code section 495, the Board of Registered Nursing, Department of Consumer Affairs issues this letter of public reproval.

Sincerely,

LOUISE R. BAILEY, W.ED., R.N.

**Executive Officer** 

Board of Registered Nursing Department of Consumer Affairs

State of California